

# **ATTENTION**

## **all military personnel**

### **You took an oath**

"... to preserve, protect, and defend the Constitution of the United States against all enemies, foreign or domestic."

But what does that oath really mean in your personal and professional life? More than you may realize. And that oath may, in the months and years ahead, be put to a test that you neither expect or want. This paper is to help you prepare for that test.

### **Who are the enemies?**

Foreign enemies are easy to understand, and require little discussion. What about domestic? Spies? Terrorists? Criminals? How about corrupt officials? Or overzealous officials who ride roughshod over the Constitution and the rights of citizens in pursuit of a mission they think outweighs all other concerns? What about corrupt or overzealous officials in your chain of command, who may try to use you for their criminal purposes? What about top civilian leaders, who may decide to overthrow the Constitution and establish a new regime in which there are no limits on governmental powers or guaranteed rights, and use the military to carry out their plans?

At this point you may be thinking "Nonsense. Nothing like that will ever happen in the United States of America. The people running our government are nice guys who can be trusted to try to do the right thing. They would never try to do anything like that. This is just some kind of paranoid anti-government propaganda."

Don't be too sure. A lot of people thought the same thing a few years ago who became aware of evidence that is extremely troubling, evidence that would be incredible if it didn't come from people inside government who are extremely troubled by what they are being asked to do.

One of those things is making preparations for a general warrantless search of every site in the United States, using military personnel, to confiscate all firearms and shoot anyone who resists. A clear violation of almost all of the rights guaranteed in the Constitution. Don't rely on this document. Check it out for yourself through military channels. Then think about what it means.

No more elections. Not for some time. The people would be outraged. They'd vote all the incumbents out if elections were held. The government might offer some justification for their action, something that might seem convincing to many, but not to everyone.

In the meantime citizens throughout the country are organizing independent local militias, to resist assaults on the Constitution. At some point, you may be called upon to choose sides.

## **Assaults on the Constitution**

The Framers of the Constitution made it very clear: Government was not to exercise any power not delegated to it by the Constitution. But for many decades now, it has been assuming more and more powers for which there is no constitutional basis, often in response to demands from the public to "do something" about some problem or another, without bothering to adopt amendments that would make such powers legitimate. Courts have, for the most part, gone along with this, often resorting to imaginative sophistry to try to make it seem legitimate.

If this weren't bad enough, these new powers are increasingly being abused to serve purposes and interests that were never intended by the original legislation. The result is an increasing crisis of legitimacy, and increasing alienation from government on the part of an every growing part of the population.

## **The UCMJ on illegal orders**

The Uniform Code of Military Justice is more concerned about failure of military personnel to obey legitimate orders than it is about refusal to obey illegitimate orders, but it does address the subject. In Section 16c(1)(c) it provides:

*Lawfulness.* A general order or regulation is lawful unless it is contrary to the Constitution, the laws of the United States, or lawful superior orders or for some other reason is beyond the authority of the official issuing it.

And in Section 14c(2)(a)(i):

*Inference of lawfulness.* A order requiring the performance of a military duty or act may be inferred to be lawful and it is disobeyed at the peril of the subordinate. This inference does not apply to a patently illegal order, such as one that directs the commission of a crime.

These provisions allow for the disobedience of illegal orders, but such orders may themselves constitute a crime, or be part of a criminal conspiracy, either under military or civilian law. Under federal law, 18 USC 242, it is illegal for anyone under the color of law to deprive any person of the rights, privileges or immunities secured by the U.S. Constitution, and under 18 USC 241 it is illegal to conspire to violate such rights. It is a felony punishable by up to 10 years in prison. This could be applied to military personnel who abuse the rights of citizens, either military or civilian. The UCMJ also defines an Article 134 offense: Impersonating a commissioned, warrant, noncommissioned, or petty officer, or an agent or official. This could

apply to a military officer who impersonates a civilian official in an action against civilians. This includes actions taken under martial law. In RCM 202(a):

The exercise of jurisdiction under Article 2(a)(11) in peacetime has been held unconstitutional by the Supreme Court of the United States. Article 2(a)(10) has also been limited.

In RCM 302(b) *Who may apprehend*. The following officials may apprehend any person subject to trial by court-martial:

- (1) Military law enforcement officials.
- (2) Commissioned, warrant, petty, and noncommissioned officers.

However, anyone, including the lower enlisted grades, may apprehend for violation of civilian laws, provided it is done as an independent act of a citizen and not under orders.

Also be aware of the *Posse Comitatus* Act, which forbids members of the Army and Air Force to be used for domestic law enforcement.

The key point is this: You not only have the right to disobey an illegal order, but you may also have the duty to apprehend the parties issuing such an order if such issuance is part of the commission of a crime.

## **The Principle of Nuremberg**

After World War II, Nazi war crimes were prosecuted at Nuremberg, and those trials established an important principle: that is the responsibility of every individual to make an independent determination of the legality of any law or official act. No one may delegate that duty to others, not to superiors, and not to judges. It is no defense that you were "just following orders".

## **Some Constitutional violations**

Be aware of what are the constitutional limits on federal powers. The Constitution allows criminal prosecution under federal laws on state territory only for (1) treason, (2) counterfeiting, (3) crimes on the high seas, (4) crimes against the law of nations, or (5) violations of civil rights by officials. It does not allow criminal prosecution for violations of any regulations, such as those passed under the interstate commerce clause, or for failure to pay taxes. Therefore, most such federal criminal laws apply only to acts committed on federal territory, including land ceded to the federal government by a state legislature, coastal waters, U.S. flag vessels on the high seas, and the grounds of U.S. embassies abroad.

Furthermore, the Framers intended that "interstate commerce" include only transactions that cross a state border, not all the things that it has been extended to cover, such as anything that

has ever crossed a state border, or anything that ever might cross a state border, or anything done by someone who does business some of which crosses a state border, or anything that is "part of an aggregate" of activities that cross a state border, or anything that may "affect" interstate commerce.

## **What you can do**

Investigate what is going on within the military regarding violations of the Constitution and laws pursuant to it. Then contact local patriot groups. You can find them through gun shops, American Legion or VFW posts, radio talk show hosts, alternative newspapers and bookstores, or your local militia unit.